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IN THE

Supreme Court of the United States

OCTOBER TERM, 1992

GEORGE V. VOINOVICH,
Governor of the State of Ohio, *et al.*,
Appellants,

v.

BARNEY QUILTER, Speaker Pro Tempore
of the Ohio House of Representatives, *et al.*,
Appellees.

Appeal from the United States District Court for the Northern District of Ohio

APPELLEES' SUPPLEMENTAL BRIEF

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Pursuant to Sup. Ct. R. 25.5, Appellees file this supplemental brief for the purpose of presenting to this Court results of the November 3, 1992 election, which were not available in time to have been included in Appellees' Brief. Specifically, this brief addresses the election results for Ohio's House of Representatives in the urban areas throughout the state. The November 3, 1992 election was conducted in accordance with the 1992 apportionment plan that the three-judge court found uncon-

stitutional and in violation of the Voting Rights Act, which is the subject of the appeal before this Court.

The 1992 election results show that Appellants aggregated black voters in districts already represented by minority legislators, where these voters had been able to elect candidates of their choice with white crossover voting. *See* Appellees' Brief, Chart C. For example, the district represented by minority legislator Mr. Sykes had a 1981 black population of 35.40 percent and he was re-elected in 1990 with 48.76 percent white crossover vote and 65.49 percent of the vote overall. *See* Charts C and D.[1] Appellants increased the black population in the district Mr. Sykes represents. *See* Chart D. Under the 1981 apportionment, the coalition of black and white voters in the urban districts elected eleven minority representatives with overwhelming pluralities. *Id.* Each of the eleven black legislators won with more than 63 percent of the average vote in elections held from 1984 through 1988 and in the 1990 election. J.A. 308. Seven of these eleven districts had a 1981 black population below 50 percent. *See* Chart D. Yet, in the 1991 apportionment plan the black population was increased in eight of the eleven districts represented by these legislators, six of whom won their districts by nearly a three-to-one margin or more[2] and won with an average of 78.47 percent of the vote in the 1992 election.

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[1] Mr. Sykes was first elected to that district in 1984, replacing a white incumbent, Mr. Crossland. J.A. 185. However, in 1984 Mr. Sykes won by a greater margin than his white predecessor, despite the fact that he had the lowest black population percentage (35.2) of the eleven districts represented by minorities. J.A. 200. Similarly, minority representative, Mr. Roberts, had no difficulty getting elected for the first time in 1986, replacing Mr. Orlett, a white representative, with as little as 36 percent black population. J.A. 186, 200. Chart D is included in the attached Appendix.

[2] In 1992, Casey Jones won District 49 in Lucas County by a margin of five-to-one. Representative Beatty, who represents one of the eight districts where the population was increased, ran unopposed.

Id. Moreover, seven of the twelve legislators elected in 1992 ran against white candidates. *Id.*[3]

Appellants claimed that they needed to increase black population percentages because the districts were represented by incumbents, arguing that a new candidate would be unable to win the election absent a guaranteed safe seat.[4] However, Ms. Boyd, who is black, was a new candidate in the 1992 election and won the seat for the ninth district in Cuyahoga County with a plurality of 83.46 percent. *See* Chart D. The black population of the ninth district was increased to 62.30 percent. *Id.* In fact, District 9, which was established for a non-incumbent, has 5.05 percent less black population than District 10, the most black populous district in Cuyahoga County. Yet, Ms. Boyd, the non-incumbent, won with a plurality of only 3.28 percent less than Mr. James, the fourteenth term incumbent from District 10. *Id.*

Another effect of aggregating blacks into districts that guarantee a black candidate a safe seat is that certain groups of blacks who were in districts where they were able to elect a candidate of choice were gerrymandered into a district where in the 1992 election, they were unable to elect their candidate of choice.

For example, the city of Lincoln Heights, Hamilton County, was located in District 24, with a black population of 32.3 percent, under the 1981 apportionment. J.A.

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[3] In the 1992 election, white incumbent candidate, Jane Campbell, defeated a black Republican candidate in the 11th District, Cuyahoga County, which has a black population of 43.01 percent, and white population of 56.99 percent. Ms. Campbell won the election with 81.09 percent of the vote. Thus, assuming that all of the white population voted for her, she still received a majority of the black population's vote in her district, especially since her opponent only received 18.91 percent of the vote.

[4] The statistics from prior elections do not support this argument. *Id.*

306.[5] Democrat legislator Terry Tranter represented House District 24 and had a 90 percent voting record on issues of concern to the minority community. D. 112, Ex. 17. Under Amendment D to the 1991 plan, Lincoln Heights, which has a black population of 99 percent, was moved to House District 36 which has a black population of 4.49 percent. D. 147, Ex. C at 77; J.A. 306. In the 1992 election, Lincoln Heights voters cast 1,132 votes for Democrat candidate Mr. Stidham and only 176 votes for Republican candidate Mr. Schuler.[6] Likewise, the city of Silverton, Hamilton County, has 47.4 percent black population and under the 1981 plan was located in House District 25 which had a black population of 53.2 percent. J.A. 306. Minority legislator Helen Rankin represented House District 25 throughout the 1980s. J.A. 308. Under Amendment D, Silverton was also moved to House District 36. D. 147, Ex. C at 77. In the 1992 election, Silverton cast 1,511 votes for Mr. Stidham and 990 for Mr. Schuler. Mr. Schuler won the election with 69.85 percent of the vote.

In Franklin County at least five precincts/wards (23F, 24E, 42B, 42G, and 27E), which in the 1981 plan were located in House District 29 with a black population of 38.5 percent (J.A. 306), were moved to districts with minimal black population. Minority legislator Ray Miller represented House District 29 throughout the 1980s. J.A. 308. Precinct 23, ward F has a black population of 36 percent; precinct 42, ward B has 44 percent; and precinct 42 ward G has 34 percent black population. Under

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[5] Data relating to the 1981 districts, and population figures for cities, princincts/wards taken from the 1990 census, are contained in the CSU database that was stipulated into evidence. D. 131 at 1.

[6] Election statistics were taken from the General Election results obtained from the various County Boards of Elections and the Unofficial Report of Votes for Ohio House of Representatives compiled by Secretary of State Bob Taft.

Amendment D precincts/wards 23F, and 42B & G were apportioned to House District 26 with a black population of 8.66 percent. J.A. 306. These precincts/wards collectively cast 419 votes for Democrat candidate Mr. Ryan and 302 votes for Republican candidate Mr. Tiberi. Mr. Tiberi won with 67.75 percent of the vote.

Under Amendment D, precinct 24, ward E in Franklin County, which has 48 percent black population, was apportioned to House District 27, with a black population of 3.57 percent. D. 147, Ex. C at 77; J.A. 306. This precinct/ward cast 154 votes for Democrat candidate Mr. Briggs and 55 votes for Republican candidate Mr. Thomas. In a three-way race, Mr. Thomas won with 51.83 percent of the vote. Under Amendment D, precinct 27, ward E, which has a black population of 35 percent was apportioned to House District 25 with a black population of 8.41 percent. This precinct/ward cast 127 votes for Democrat candidate Mr. Schultz and 52 for Republican candidate Mr. Mason. Mr. Mason won the election with 53.14 percent of the vote.

In Cuyahoga County, the Village of Oakwood, precinct A, ward 5, under the 1981 apportionment, was located in House District 17, which had a black population of 26.14 percent. J.A. 305. Democrat Frank Mahnic represented House District 17 and had a 90 percent voting record on issues important to the minority community. D. 112, Ex. 17. Under Amendment D, the Village of Oakwood, which has a black population of 67 percent, was moved to House District 15 with a total black population of 3.29 percent. D. 147, Ex. C at 77; J.A. 305. In the 1992 election, the Village of Oakwood cast 173 votes for Democrat candidate Frank Mahnic and only 36 votes for Republican candidate Mr. Wise. Mr. Wise won the election with 56.22 percent of the vote.

Respectfully submitted,

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APPENDIX

CHART D

MINORITY REPRESENTATIVES

1991 H.D. #	Black Rep.	1981 Black Pop. %	1990 Winning Candidate % of Vote	1991 Black Pop. %[1]	1992 Winning Candidate % of Vote[2]
8	Prentiss	74.80	88.61	65.64	86.78
9	Boyd *	34.80	N/A	62.30	83.46
10	James	94.67	86.69	67.35	86.74
12	Whalen	90.05	92.82	67.25	85.61
21	Beatty	46.80	71.55	54.30	100.00[3]
22	Miller *	38.50	67.91	44.68	75.05
30	Rankin *	53.20	73.37	55.98	79.26
31	Mallory *	45.90	70.47	49.16	68.44
38	McLin *	42.10	64.88	43.50	74.48
39	Roberts	36.10	64.48	41.69	73.74
44	Sykes *	35.40	65.49	43.07	73.58
49	Jones *	41.70	67.12	49.90	83.17

* Ran against a white candidate.

[1] Figures relate to Appellants' Amendment D to the apportionment plan. J.A. 305-08.

[2] Figures were taken from the Unofficial Report of Votes for Ohio House of Representatives Compiled by Secretary of State Bob Taft.

[3] Unopposed.